

## EXHIBIT 1

**SUMMONS**  
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):

MONETEREY FINANCIAL SERVICES, INC.; DOES 1 through 100,  
inclusive

YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

TIFFANY BRINKLEY on behalf of herself and others similarly situated

SUM-100

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

OCT 15 AM 9:54

CLEARING

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)) en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo. La corte puede tener un derecho de prelación para cobrar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): SAN DIEGO SUPERIOR COURT

37-2013-00071119-CU-MC-NC

North County Regional Center

325 South Melrose Drive, Vista, CA 92081

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Patrick N. Keegan, Esq., 5055 Avenida Encinas, Suite 240, Carlsbad, CA 92008; (760) 929-9303

DATE:

(Fecha) OCT 15 2013

Clerk, by  
(Secretario)

C. Terríquez

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (POS-010)).

(SEAL)

**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant

2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): Monterey Financial Services, Inc.

under: ☒ CCP 416.10 (corporation)

☐ CCP 416.60 (minor)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.70 (conservatee)

☐ CCP 416.40 (association or partnership)

☐ CCP 416.90 (authorized person)

☐ other (specify):

4. ☒ by personal delivery on (date):

10/27/13

Page 1 of 1

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Attorneys for Plaintiff  
TIFFANY BRINKLEY and the putative Class and Subclass

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN DIEGO**

**NORTH COUNTY DISTRICT COURT**

TIFFANY BRINKLEY on behalf of herself  
and others similarly situated,

Plaintiffs,

vs.

MONTEREY FINANCIAL SERVICES,  
INC.; DOES 1 through 100, inclusive,

Defendants.

37-2013-00071119-CU-MC-NC

CLASS ACTION COMPLAINT FOR  
DAMAGES AND INJUNCTIVE RELIEF FOR

Unlawful Recording or Monitoring of Telephone  
Calls

JURY TRIAL DEMANDED

Plaintiff TIFFANY BRINKLEY, by her attorneys, on behalf of herself and others  
similarly situated, alleges upon personal knowledge as to herself and her acts stated herein, and as  
to all other matters upon information and belief as follows:

**I. PRELIMINARY STATEMENT**

1. Plaintiff TIFFANY BRINKLEY (or "Plaintiff"), on behalf of herself and others  
similarly situated, brings this action against Defendant MONTEREY FINANCIAL SERVICES,  
INC. (or "Defendant") for the unlawful recording and/or monitoring of telephone calls in  
violation of the privacy laws of California and Washington.

2. California Penal Code §§ 630, *et seq.*, and Washington Rev. Code §§ 9.73, *et seq.*, prohibit one party to a telephone call from intentionally recording or monitoring the conversation without the knowledge or consent of the other. These statutes are violated the moment the recording is made without the consent of all parties thereto, regardless of whether it is subsequently disclosed. The only intent required by the aforementioned statutory laws is that the act of recording itself be done intentionally. There is no requisite intent on behalf of the party doing the surreptitious recording to violate the applicable state law, or to invade the privacy right of any other person. Plaintiff alleges that, despite California's and Washington's two-party consent laws and despite Defendant's representations that it maintains compliance with all federal and state regulations, Defendant, on behalf of itself and its many clients, continues to violate California's and Washington's two party consent statutes. Defendant continues to impermissibly record, monitor and/or eavesdrop upon telephone conversations on telephone calls made or received by Defendant from its principal place of business in California with persons residing and/or located in California and Washington.

3. Defendant's employees and/or agents who called Plaintiff secretly and illegally recorded or monitored multiple telephone conversations with Plaintiff. Plaintiff asserts that such surreptitious recording, monitoring was done in violation of the telephonic privacy laws of California and Washington. Plaintiff asserts that Defendant continues to illegally surreptitiously record and monitor telephone conversations with persons residing and/or located in California and Washington. Plaintiff, on behalf of herself and other similarly situated, seeks damages, injunctive relief, attorneys' fees and costs according to statute.

4. Plaintiff does not seek any relief greater than or different from the relief sought for the Class and the Subclass (defined *infra*) of which Plaintiff is a member. The action, if successful, will enforce an important right affecting the public interest and would confer a significant benefit, whether pecuniary or non-pecuniary, on a large class of persons. Private enforcement is necessary and places a disproportionate financial burden on Plaintiff in relation to Plaintiff's stake in the matter.

## II. PARTIES

5. Plaintiff TIFFANY BRINKLEY was, at all times relevant herein, a natural person and a resident of Tukwila, Washington. From December 2012 through August 2013, Plaintiff had telephonic communications with certain employees, officers and or agents of Defendant. Each of these conversations Defendant had with Plaintiff were, without her knowledge or consent,



1 recorded, monitored and/or eavesdropped upon by Defendant, causing harm and damage to  
2 Plaintiff.

3 6. Defendant MONTEREY FINANCIAL SERVICES, INC. ("MFS" or "Defendant"), at  
4 all times relevant herein, was and is a California corporation, with its headquarters and principal  
5 place of business located at 4095 Avenida de la Plata, Oceanside, CA 92056, and is licensed to do  
6 business and is doing business in California and Washington. MFS' agent of service of process is  
7 Robert Steinke located at 1748 King Road, Vista, CA 92084. MFS, at all times relevant herein,  
8 surreptitiously recorded and had policy and a practice of recording and/or monitoring telephone  
9 conversations with the public, including Plaintiff and other persons residing and/or located in  
10 California and Washington, which was in violation of applicable statutory laws as set forth below.  
11 At all times relevant herein, MFS's employees and agents were directed, trained and instructed to,  
12 and did, record, monitor and/or eavesdrop upon telephone conversations with the public,  
13 including Plaintiff and other residents and persons located in California and Washington.

14 7. Plaintiff is unaware of the true names and capacities of the defendants sued herein as  
15 DOES 1 through 100, and therefore sues these defendants by such fictitious names. Plaintiff  
16 alleges on information and belief that at all relevant times each of the DOE defendants was  
17 responsible in some manner for the acts, omissions and occurrences herein alleged and Plaintiff's  
18 damages were proximately caused thereby. Plaintiff will amend this complaint to allege the true  
19 names and capacities of the DOE defendants after they have been ascertained. Plaintiff is  
20 informed and believe, and based thereon allege, that the this Court has both subject matter and  
21 personal jurisdiction over DOES 1 through 100, inclusive, and that venue is proper in this Court  
22 with respect to those defendants. Any reference made to a named defendant by specific name or  
23 otherwise, individually or plural, is also a reference to the actions or inactions of DOES 1 through  
24 100, inclusive.

25 8. At all relevant times herein mentioned, Defendants, and each of them, were an agent or  
26 joint venturer of each of the other Defendants, and in doing the acts alleged herein, were acting  
27 with the course and scope of such agency.

28 9. Each Defendant had actual and/or constructive knowledge of the acts of each of the  
other Defendants, and ratified, approved, joined in, acquiesced and/or authorized the wrongful  
acts of each co-defendant, and/or retained the benefits of said wrongful acts.

10. Defendants, and each of them, aided and abetted, encouraged and rendered substantial  
assistance to the other Defendants in breaching their obligations to Plaintiff and the Class, as

1 alleged herein. In taking action, as particularized herein, to aid and abet and substantially assist  
2 the commissions of these wrongful acts and other wrongdoings complained of, each of the  
3 Defendants acted with an awareness of his/her/its primary wrongdoing and realized that  
4 his/her/its conduct would substantially assist the accomplishment of the wrongful conduct,  
5 wrongful goals, and wrongdoing.

6 11. Plaintiff is informed and believes and thereupon alleges that at all relevant times, each  
7 defendant was the agent, employee, representative, partner, parent company, subsidiary or  
8 affiliate of the other defendants and was acting, or was acted for, within the authority of such  
9 agency, employment, representation, partnership or corporate affiliation while doing or omitting  
10 to do the acts alleged herein and with the permission, approval, consent and/or ratification of all  
11 other defendants. The allegations against each named defendant incorporate by reference the  
12 allegations against each DOE defendant.

13 12. There exists, and at all times herein mentioned existed, a unity of interests and  
14 ownership between all of the defendants, including any individual, partnership and/or corporate  
15 defendants, and their principals, including all DOE defendants, such that all individuality and  
16 separation ceased and defendants became the alter egos of the other defendants and their  
17 principals.

18 13. Defendants are, and at all times herein mentioned were, so inadequately capitalized  
19 that, compared to the business to be done by them and where such business was being conducted  
20 in relation to Plaintiff, and the risk of loss attendant thereto, the available capital of the entities  
21 was practically non-existent. Partnership, corporate and other formalities were disregarded such  
22 that the separate identities of the entities ceased to exist and such entities became the alter egos of  
23 the other defendants and their principals, and vice versa.

24 14. Adherence to the fiction of any separate existence of any of the defendants as a  
25 distinct entity apart from the other defendants or their principals and or the fiction that defendants  
26 or their principals and or the fiction that defendant limited partnerships have "limited" liability  
27 would permit an abuse of the corporate and or partnership privilege and other privileges allowing  
28 the formation of business entities under the laws of California and Washington. Injustice would  
also result given that Defendants and their principals have specifically created the multiple  
entities in an effort to avoid their liabilities and responsibilities. Such a result would promote  
injustice.

1 15. Whenever in this complaint reference is made to any act or omission of a particular  
 2 defendant, such allegation shall be deemed to mean that said defendant, and its officers, directors,  
 3 agents, representatives, and employees, did authorize such act while actively engaged in the  
 4 management direction or control of that defendant, and while acting within the course and scope  
 5 of their employment or agency.

### 6 III. JURISDICTION AND VENUE

7 16. This Court has jurisdiction over this action under Cal. Code of Civil Procedure §  
 8 410.10. The aggregated amount of damages incurred by Plaintiff, the Class and the Subclass  
 9 (defined infra) exceeds the \$25,000 jurisdictional minimum of this Court. The amount in  
 10 controversy as to Plaintiff does not exceed \$75,000, including interest and any pro rata award of  
 11 fees, costs, and damages.

12 17. Venue is proper in this Court under Cal. Business & Professions Code § 17203, and  
 13 Cal. Code of Civil Procedure §§ 395(a), 395.5, because Defendant's principal place of business is  
 14 located in this judicial district. Defendant does business in the State of California, as well as in the  
 15 County of San Diego, and Defendant has obtained personal information in the transaction of  
 16 business in this judicial district, which has caused both obligations and liability of Defendant to  
 17 arise in this judicial district.

### 18 IV. CONDUCT GIVING RISE TO VIOLATIONS

19 18. From December 2012 through March 2013, and specifically on December 19, 2012  
 20 and again on January 10, 2013, Plaintiff had telephonic communications with certain employees,  
 21 officers and/or agents of Defendant who were located in California. Therefore, from December  
 22 2012 through March 2013, Plaintiff received at least one telephone call from certain employees,  
 23 officers and/or agents of Defendant and made at least one telephone call to certain employees,  
 24 officers and/or agents of Defendant at MFS' principal place of business in Oceanside, California.  
 25 During each of these calls, Plaintiff confirmed her identity and Plaintiff shared her personal  
 26 information as she believed that each of these calls was confidential in nature and that such calls  
 27 were not being monitored or recorded. At no time during such telephone conversations with  
 28 employees, officers and/or agents of Defendant was Plaintiff told that her telephone conversations  
 would be or may be recorded or monitored and at no time during such telephone conversations  
 did Plaintiff give her consent to Defendant to record or monitor such telephone conversations.

19. Currently on its website, <http://www.montereyfinancial.com>, MFS represents that  
 Robert C. Steinke is the CEO, the Chairman of the Board, and is the controlling shareholder in

1 MFS, and that "[i]n 1989, Robert Steinke founded Monterey Financial Services, Inc. ... to provide  
 2 ... the delivery of three complimentary (sic) services: our consumer financing program, loan  
 3 servicing, and delinquent debt collections." Additionally, MFS currently represents on its website  
 4 that "[i]n 1996 Monterey built a 27,000 square foot facility in Oceanside, California in order to  
 5 accommodate its rapidly growing operations. In addition to the state of the art office building it  
 6 owns, Monterey acquired a contiguous parcel of land onto which future growth and expansion is  
 7 possible. Monterey employs over one hundred full time associates..." Furthermore, MFS currently  
 8 represents on its website that "Monterey maintains compliance with all federal and state  
 9 regulations governing the purchasing, servicing, and collection of consumer debt. Regular  
 10 training and testing related to debt collection has been implemented since its birth. Its Wygant  
 11 Call Recording System is utilized for quality control, training purposes, and protection against  
 12 false consumer complaints. Monterey passes sensitive consumer data and performance reports  
 13 through its secure website and flip site." Also, in a June 2010 interview currently posted on MFS'  
 14 website, Scott Little, Vice President of Sales & Marketing of MFS since 1994, was quoted as  
 15 saying "Quite simply, it's the phone calls that make the difference. Rather than relying on a letter  
 16 series of some sort and then sitting back and waiting for payments to arrive, we get on the phone  
 17 with the delinquent customer and establish a way to get your debt paid in full, as quickly as  
 18 possible."

19 20. After Plaintiff had telephonic communications with certain employees, officers and/or  
 20 agents of Defendant who were located in California without Defendant telling her that her  
 21 conversations would be recorded and obtaining her consent at the beginning of the conversation  
 22 to record such telephone conversations, in response to Plaintiff's March 18, 2013 email, Jeffrey  
 23 D. Smith, Financial Manager of MFS, sent an email reply to Plaintiff on March 19, 2013 at 7:78  
 24 a.m. confirming that "We record our calls for Quality Assurance and training purposes...." In  
 25 response to Jeffrey D. Smith's March 19, 2013 email, Plaintiff sent an email reply to Jeffrey D.  
 26 Smith, Financial Manager of MFS, on March 19, 2013 at 9:14 a.m. stating that "[y]es, I would  
 27 like to request access to any recording that you have of our conversation. I was not made aware  
 28 of a recording ...."

21. Defendant recorded all of its multiple telephone conversations with Plaintiff. Each of  
 Plaintiff's aforementioned telephone conversations with Defendant entailed Plaintiff using her  
 "cellular radio telephone" as such term is defined in Cal. Penal Code §632.7(c)(1). During each  
 of her aforementioned telephone conversations with employees, officers and/or agents of



1 Defendant, Plaintiff had had an objectively reasonable expectation that her telephone  
2 conversations with Defendant were not being overheard or recorded.

3 22. At no time during any of these calls was Plaintiff ever informed at the beginning of  
4 the telephone calls that her telephone calls were being recorded and/or monitored. At no time did  
5 Plaintiff give consent to Defendant for their telephone calls to be recorded and/or monitored.

6 23. During the Class Period (defined infra), Defendant has had a policy and a practice of  
7 recording and/or monitoring telephone conversations with consumers. Defendant's employees  
8 and agents are directed, trained and instructed to, and do, record and or monitor telephone  
9 conversations with Plaintiff and other residents and persons located in California and  
Washington.

10 24. During the Class Period (defined infra), Defendant has installed and/or caused to be  
11 installed a certain call recording system on its employees' officers', and/or agents' telephone lines  
12 in California. Defendant used its call recording system to record, overhear and listen to each and  
every telephone conversation on said telephone lines.

13 25. During the Class Period (defined infra), Defendant has caused their calls with  
14 Plaintiff and other residents and persons located in California and Washington to be recorded  
15 and/or monitored without the knowledge or consent of Plaintiff and other residents and persons  
16 located in California and Washington. Defendant's conduct alleged herein constitutes violations  
17 of the right to privacy of the public, including Plaintiff and other residents and persons located in  
18 California and Washington.

#### 19 V. CLASS ACTION ALLEGATIONS

20 26. Plaintiff brings this action on her own behalf and on behalf of all other persons  
21 similarly situated. Without prejudice to later revision, the class which Plaintiff seeks to represent  
is defined as follows:

22 "All persons who, while physically located or residing in California and Washington,  
23 made or received one or more telephone calls with Defendant MONTEREY FINANCIAL  
24 SERVICES, INC. during the four year period preceding the filing of this lawsuit (the "Class  
25 Period") and did not receive notice at the beginning of the telephone call that their telephone  
26 conversation may be recorded or monitored" (the "Class").  
27  
28

1 27. Without prejudice to later revision, the subclass which Plaintiff seeks to represent as  
2 the subset of the Class is defined as follows:

3 "All persons who made one or more telephone calls with Defendant MONTEREY  
4 FINANCIAL SERVICES, INC., while using a "cellular radio telephone" as such term is defined  
5 in Cal. Penal Code §632.7(c)(1), during the four year period preceding the filing of this lawsuit  
6 and did not receive notice at the beginning of the telephone call that their telephone conversation  
7 may be recorded or monitored" (the "Subclass").

8 28. The members of the Class and the Subclass identified above are so numerous that  
9 joinder of all members is impracticable. While the exact number of the Class members is  
10 unknown to Plaintiff at this time, the individual identities of the individual members of the Class  
11 and the Subclass are ascertainable through Defendant's records or by public notice.

12 29. There is a well-defined community of interests in the questions of law and fact  
13 involved affecting the members of the Class and the Subclass. The questions of law and fact  
14 common to the members of the Class and Subclass predominate over questions affecting only  
15 individual class members, and include, but are not limited to the following:

- 16 a. Whether Defendant has or had a policy of recording, wiretapping, eavesdropping  
17 upon and/or monitoring incoming and/or outgoing calls;
- 18 b. Whether Defendant disclosed to callers and/or obtained their consent that their  
19 incoming and/or outgoing telephone conversations were being recorded, wiretapped,  
20 eavesdropped upon and/or monitored;
- 21 c. Whether Defendant's conduct of recording, wiretapping, eavesdropping upon and/or  
22 monitoring incoming and/or outgoing calls constituted a violation of Cal. Penal Code  
23 §§ 630 *et seq.*; and/or Wash. Rev. Code §§ 9.73 *et seq.*;
- 24 d. Whether Defendant's policy of recording, wiretapping, eavesdropping upon and/or  
25 monitoring incoming and/or outgoing calls constitutes violation of California Business  
26 and Professions Code §§ 17200 *et seq.*;
- 27 e. Whether DOE defendants are liable for the actions of MFS;
- 28 f. Whether the members of the Class and/or Subclass are entitled to the remedies  
available under the applicable privacy anti-wiretapping law;
- g. Whether the members of the Class and/or Subclass are entitled to injunctive relief;
- h. Whether the members of the Class and/or Subclass are entitled to an award of  
reasonable attorney's fees and costs.

1       30. Plaintiff's claims are typical of the claims of the other members of the Class and  
2 Subclass which all arise from the same operative facts involving illegal recording or monitoring  
3 of telephone conversations on incoming and outgoing telephone calls with Defendant in  
4 California and are entitled to the greater of statutory damages of five thousand dollars (\$5,000)  
5 per violation or three times actual damages, pursuant to Cal. Penal Code § 637.2(a); and or actual  
6 damages or liquidated damages computed at the rate of one hundred dollars (\$100) a day for each  
7 day of violation, not to exceed one thousand dollars (\$1,000), and reasonable attorney's fees and  
8 other costs of litigation, pursuant to Wash. Rev. Code § 9.73.060.

9       31. Plaintiff will fairly and adequately protect the interests of the Class and the Subclass.  
10 Moreover, Plaintiff has no interest that is contrary to or in conflict with those of the Class and  
11 Subclass she seeks to represent during the Class Period since like all other Class members,  
12 Defendant recorded and or monitored its telephone conversations with Plaintiff on incoming and  
13 outgoing telephone calls with certain employees, officers and/or agents of Defendant located in  
14 California, and like all other Subclass members, each of Plaintiff's the aforementioned calls with  
15 Defendant entailed Plaintiff using her "cellular radio telephone" as such term is defined in Cal.  
16 Penal Code §632.7(c)(1). In addition, Plaintiff has retained counsel experienced in handling class  
17 claims and claims involving illegal telephone recording and monitoring litigation to further  
18 ensure such protection and intend to prosecute this action vigorously.

19       32. Prosecution of separate actions by individual members of the Class and/or the  
20 Subclass would create a risk of inconsistent or varying adjudications with respect to individual  
21 members of the Class and the Subclass and would lead to repetitious trials of the numerous  
22 common questions of fact and law in the State of California; and could also lead to the  
23 establishment of incompatible standards of conduct for the Defendant, especially in the realm of  
24 the confidentiality of telephone conversations and expectations of privacy. Such individual  
25 adjudications would be, as a practical matter, dispositive of the interests of, or would substantially  
26 impair or impede the interests of, the other members of the Class and or the Subclass. Plaintiff  
27 knows of no difficulty that will be encountered in the management of this litigation that would  
28 preclude its maintenance as a class action. As a result, a class action is superior to other available  
methods for the fair and efficient adjudication of this controversy.

1 33. Defendant has acted or has refused to act on grounds that generally apply to the Class  
2 and the Subclass and final injunctive relief is appropriate as to the Class and the Subclass as a  
3 whole. Specifically, Defendant has recorded and/or monitored calls with Plaintiff and other  
4 residents and persons located in California and Washington without complying with California's  
5 and Washington's notice and consent requirement, and injunctive relief is necessary to avoid  
6 ongoing violations in the future.

7 34. The common questions of law and fact predominate over any questions affecting only  
8 individual members. Furthermore, a class action is a superior method for the fair and efficient  
9 adjudication of this controversy. Class-wide damages are essential to induce Defendant to  
10 comply with applicable law. The interest of class members in individually controlling the  
11 prosecution of separate claims against Defendant is small because of caps on statutory damages  
12 per-illegally-recorded-call. Management of these claims is likely to present significantly fewer  
13 difficulties than those presented in many class claims, e.g. securities fraud.

14 35. Proper and sufficient notice of this action may be provided to the Class and Subclass  
15 members through methods best designed to provide adequate notice, including potentially a  
16 combination of e-mail, and/or postal mail, and/or Internet website, and/or publication.

17 36. Furthermore, the Class members' individual damages are insufficient to justify the  
18 cost of litigation, so that in the absence of class treatment, Defendant's violations of law inflicting  
19 substantial damages in the aggregate would go unremedied without certification of the Class and  
20 the Subclass. Absent certification of this action as a class action, Plaintiff and the members of the  
21 Class and the Subclass will continue to be damaged, thereby allowing Defendant to retain the  
22 proceeds of their ill-gotten gains.

23 37. Plaintiff also alleges that, as a direct result of Plaintiff bringing the illegal  
24 recording/monitoring issue to Defendant's attention, Defendant will prospectively make  
25 substantial and important changes to their recording practices in telephone conversations.  
26 Specifically, Plaintiff alleges that, as a result of Plaintiff's efforts, Defendants will or be required  
27 to ceased to surreptitiously record monitor calls, or implement changes in its policies designed to  
28 avoid surreptitious recording monitoring of calls. In either scenario (Plaintiff as catalyst for  
change or Plaintiff as enjoiner), Plaintiff has enforced, or will enforce, an important right  
affecting the public interest, conferring a significant benefit, whether pecuniary or nonpecuniary,  
on the general public or a large class of persons.

**VI. CAUSES OF ACTION**

**FIRST CAUSE OF ACTION**

**Invasion of Privacy Under Applicable State Statutory Laws  
(Against Defendant on behalf of the Class)**

38. Plaintiff incorporates and realleges each and every preceding paragraph as though fully set forth herein.

39. Cal. Penal Code §§ 631, 632, and Wash. Rev. Code §§ 9.73.030(1)(a) prohibit one party to a telephone call from intentionally recording the conversation without the knowledge or consent of the other. The aforementioned state statutes are violated the moment the recording is made without the consent of all parties thereto, regardless of the whether it is subsequently disclosed. The only intent required by the aforementioned state statutes is that the act of recording itself be done intentionally. There is no requisite intent on behalf of the party doing the surreptitious recording to violate California and/or Washington law, or to invade the privacy right of any other person.

40. Defendant employed and/or caused to be employed certain wire-tapping, eavesdropping, recording and listening equipment on the telephone lines of all employees, officers, and/or agents of Defendant.

41. Plaintiff is informed and believes and thereupon alleges that all these devices were maintained and utilized to overhear, record, and listen to each and every incoming and outgoing telephone conversation over said telephone lines. As a result, the persons who received telephone calls from or made telephone calls to MFS had their conversations recorded and/or monitored by Defendant.

42. Said wire-tapping, listening, recording, and eavesdropping equipment was used to record, monitor, or listen to the telephone conversations of the Plaintiff and members of the Class, all in violation of Cal. Penal Code §§ 631, 632, and Wash. Rev. Code §§ 9.73.030(1)(a).

43. The said telephone communications, and the recordings thereof were disseminated by and between the defendants, and each of them, and were otherwise willfully distributed and disclosed by and between the defendants and each of them, all in further violation of Cal. Penal Code §§ 631, 632, and Wash. Rev. Code §§ 9.73.030(1)(a).

44. At the outset of each and every incoming and outgoing telephone conversation over said telephone lines, Defendant failed to inform Plaintiff or any other member of the Class that the interceptions, eavesdropping, wire-tapping, listening, and recording of their telephone



1 conversations was taking place. At no time during these telephone conversations did Defendant  
 2 or any of any employee, officer and/or agent of Defendant inform Plaintiff or any other member  
 3 of the Class that the interceptions, eavesdropping, wire-tapping, listening, and recording of their  
 4 telephone conversations was taking place and at no time did Plaintiff or any member of the Class  
 5 consent to this activity.

6 45. Defendant intentionally engaged in the aforementioned intercepting, eavesdropping,  
 7 wire-tapping, listening, and recording activities during the telephone conversations between  
 8 Plaintiff and the Class members, on the one hand, and Defendant on the other hand, as alleged  
 9 herein above. These conversations were "confidential communications" within the meaning of  
 10 California Penal Code § 632 since Plaintiff and members of the Class had an objectively  
 11 reasonable expectation that the conversations were not being overheard or recorded.

12 46. Based on the foregoing, Plaintiff and members of the Class are entitled to, seek and  
 13 below herein do pray for, their damages including but not limited to the greater of statutory  
 14 damages of five thousand dollars (\$5,000) per violation or three times actual damages, pursuant  
 15 to Cal. Penal Code § 637.2(a); and/or actual damages or liquidated damages computed at the rate  
 16 of one hundred dollars (\$100) a day for each day of violation, not to exceed one thousand dollars  
 17 (\$1,000), and reasonable attorney's fees and other costs of litigation, pursuant to Wash. Rev. Code  
 18 § 9.73.060.

19 47. In addition to damages, Plaintiff and members of the Class are entitled to pursuant to  
 20 Cal. Penal Code § 637.2(b) and seek and below herein do pray for, injunctive relief in the form of  
 21 an order (1) to restrain Defendant from recording any future telephonic communications with  
 22 persons in California and Washington without consent and (2) to compel Defendant to institute  
 23 policies and procedures which will educate Defendant's employees and agents as to California  
 24 and Washington privacy laws and assure that such employees and agents follow such privacy  
 25 laws.

26 48. Because this case is brought for the purposes of enforcing important rights affecting  
 27 the public interest, Plaintiff and members of the Class are entitled to and seek and below herein  
 28 do pray for, recovery of their attorney's fees pursuant to the private attorney general doctrine  
 codified in Cal. Code of Civil Procedure §1021.5.

**SECOND CAUSE OF ACTION**  
**For Unlawful Recording of Telephone Calls Under Cal. Penal Code §632.7**  
**(Against Defendant on behalf of the Subclass)**

49. Plaintiff incorporates and realleges each and every preceding paragraph as though fully set forth herein.

50. At all relevant times, Defendant has routinely made and received telephone calls with persons in California and Washington in the course of their business.

51. At all relevant times, Defendant has made use of a call recording system which allows it to secretly record telephone "communications" as such term is defined in Cal. Penal Code § 632.7(c)(3) between Defendant and persons in California and Washington while such persons were utilizing a "cellular radio telephone" as such term is defined in Cal. Penal Code § 632.7(c)(1) during telephone calls made or received by Defendant in California. Moreover, Defendants did, in fact, receive and secretly record such "communications" as such term is defined in Cal. Penal Code § 632.7(c)(3) with the members of the Subclass, without their knowledge or consent, in violation of Cal. Penal Code § 632.7(a).

52. Based on the foregoing, Plaintiff and members of the Subclass are entitled to, seek and below herein do pray for, their damages including but not limited to the greater of statutory damages of five thousand dollars (\$5,000) per violation or three times actual damages, pursuant to Cal. Penal Code § 637.2(a).

53. In addition to damages, Plaintiff and members of the Subclass are entitled to pursuant to Cal. Penal Code § 637.2(b) and seek and below herein do pray for, injunction relief in the form of an order (1) to restrain Defendants from recording any future "cellular radio telephone" communications with persons in California and Washington without consent, and (2) to compel Defendants to institute policies and procedures which will educate Defendant's employees and agents as to California and Washington privacy laws and assure that such employees and agents follow such privacy laws.

54. Because this case is brought for the purposes of enforcing important rights affecting the public interest, Plaintiff and the Subclass seek recovery of their attorney's fees pursuant to the private attorney general doctrine codified in Cal. Code of Civil Procedure §1021.5.

**THIRD CAUSE OF ACTION**  
**Unlawful and Unfair Business Acts and Practices in Violation of California Business & Professions Code §17200, et seq.**  
**(Against Defendant on behalf of the Class)**

55. Plaintiff incorporates and realleges each and every preceding paragraph as though fully set forth herein.

56. The acts, omissions, and practices of Defendants as alleged herein constitute unlawful and unfair business acts and practices within the meaning of Section 17200, *et seq.* of the Cal. Business & Professions Code. Defendant's conduct in violation of Cal. Penal Code §§ 631, 632, and Wash. Rev. Code §§ 9.73.030(1)(a), as set forth above, constitutes unlawful and unfair business acts and practices in violation of Cal. Business and Professions Code § 17200 *et seq.* in the following respects:

- a. Defendant's conduct of overhearing, recording and listening to each and every incoming and outgoing telephone conversation with Plaintiff and the Class without their prior consent, as set forth above, constitutes an unlawful business practice because Defendant's conduct violates Cal. Penal Code §§ 631, 632, and Wash. Rev. Code §§ 9.73.030(1)(a);
- b. Defendant's conduct of overhearing, recording and listening to each and every incoming and outgoing telephone conversation with Plaintiff and the Class without their prior consent, as set forth above, constitutes an unfair business practice because Defendant's practice is unethical, unscrupulous, and substantially injurious to consumers, and the harm to Plaintiff and members of the Class and the Subclass outweighs the utility, if any, of Defendant's practices

57. As a result of Defendant's violation of Cal. Penal Code §§ 631, 632, and Wash. Rev. Code §§ 9.73.030(1)(a), and Defendant's violation of Cal. Business and Professions Code § 17200 *et seq.*, as set forth above, Plaintiff and the Class have suffered an injury in fact by, among other things, having their personal information recorded without their permission or consent and having their personal information disseminated to others without their without their prior permission or consent.

58. Additionally, Plaintiff and the Class have lost money or property in that Plaintiff and the Class have suffered and are each entitled to the statutory damages in the greater of amount of five thousand dollars (\$5,000) per violation or three times actual damages pursuant to Cal. Penal Code § 637.2(a); and or actual damages or liquidated damages computed at the rate of one

1 hundred dollars (\$100) a day for each day of violation, not to exceed one thousand dollars  
 2 (\$1,000), and reasonable attorney's fees and other costs of litigation, pursuant to Wash. Rev. Code  
 3 § 9.73.060.

4 59. Defendant's unlawful and unfair business practices, as described above, present a  
 5 continuing threat to Plaintiff and the Class since Defendant continues to overhear, record and  
 6 listen to each and every incoming and outgoing telephone conversation with persons in California  
 7 and Washington, including Plaintiff and the Class without their prior consent. Plaintiff and the  
 8 Class have no other adequate remedy of law in that absent injunctive relief from the Court,  
 9 Defendant is likely to continue to injure residents of California and Washington, and thus  
 engendering a multiplicity of judicial proceedings.

10 60. Pursuant to the Cal. Business & Professions Code § 17203, Plaintiff and the Class  
 11 seek an order of this Court for equitable and or injunctive relief in the form of an order instructing  
 12 Defendants to prohibit the overhearing, recording and listening to each and every incoming and  
 13 outgoing telephone conversation with California and Washington residents, including Plaintiff  
 14 and the Class without their prior consent, and to maintain the confidentiality of the information of  
 15 Plaintiff and the Class already obtained by Defendant way of its illegal practices set forth above.  
 16 Because this case is brought for the purposes of enforcing important rights affecting the public  
 17 interest, Plaintiff and the Class also seek the recovery of attorneys' fees and costs in prosecuting  
 this action against Defendants under Code of Civil Procedure § 1021.5 and other applicable law.

#### 18 PRAYER FOR RELIEF

19 WHEREFORE, Plaintiff prays for judgment against all Defendants, on behalf of herself  
 20 and the members of the putative Class and Subclass, as follows:

21 1. That this action be certified as a class action on behalf of the proposed Class and  
 Subclass and Plaintiff be appointed as representatives of the Class and Subclass;

22 2. For damages under Cal. Penal Code § 637.2 and/or damages pursuant to the similar  
 23 statute of Washington, Wash. Rev. Code § 9.73.060, per each violation Cal. Penal Code §§ 631,  
 24 632; and Wash. Rev. Code § 9.73.030(1)(a), for Plaintiff and each member of the Class;

25 3. For damages under Cal. Penal Code § 637.2, per each violation Cal. Penal Code §  
 632.7(a), for Plaintiff and each member of the Subclass;

26 4. For injunctive relief in the form of an order requiring Defendants to disgorge all ill-  
 27 gotten gains and awarding Plaintiffs and the Class full restitution of all monies wrongfully  
 28 acquired by Defendants by means of such unfair and unlawful conduct, plus interest and

1 attorneys' fees pursuant to, *inter alia*, Cal. Business & Professions Code § 17203; and Cal. Code  
2 of Civil Procedure § 1021.5:

3 5. That the Court preliminarily and permanently enjoin Defendants from overhearing,  
4 recording and listening to each and every incoming and outgoing telephone conversation with  
5 persons in California and Washington, including Plaintiffs and the Class without their prior  
6 consent and to maintain the confidentiality of the information of Plaintiff and the Class already  
7 obtained by way of the illegal practices set forth above pursuant to, *inter alia*, Cal. Penal Code §  
8 637.2(b).

9 6. For distribution of any moneys recovered on behalf of the Class of similarly situated  
10 consumers via fluid recovery or cy pres recovery where necessary to prevent Defendants from  
11 retaining the benefits of its wrongful conduct:

12 7. For an award of reasonable attorneys' fees as authorized by statute including, but not  
13 limited to, Wash. Rev. Code § 9.73.060 and the provisions of Cal. Code of Civil Procedure §  
14 1021.5, and as authorized under the "common fund" doctrine, and as authorized by the  
15 "substantial benefit" doctrine:

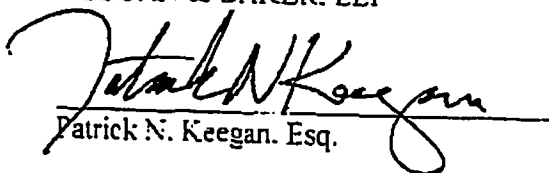
16 8. For costs of suit as authorized by statute including, but not limited to, Wash. Rev. Code  
17 § 9.73.060:

18 9. For prejudgment interest at the legal rate; and

19 10. For such other and further relief as the court may deem proper.

20 Dated: October 15, 2013

KEEGAN & BAKER, LLP

  
Patrick N. Keegan, Esq.

WICKMAN & WICKMAN  
Steven A. Wickman, Esq.  
Christina E. Wickman, Esq.

Attorneys for Plaintiff and the putative Class and  
Subclass

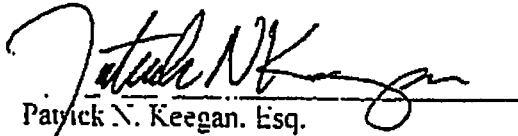


DEMAND FOR JURY TRIAL

Plaintiff and the Class hereby demand a jury trial on all causes of action and claims with respect to which they have a right to jury trial.

Dated: October 15, 2013

KEEGAN & BAKER, LLP



Patrick N. Keegan, Esq.

WICKMAN & WICKMAN

Steven A. Wickman, Esq.

Christina E. Wickman, Esq.

Attorneys for Plaintiff and the putative Class and Subclass

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b>	
STREET ADDRESS: 325 S Melrose DRIVE	
MAILING ADDRESS: 325 S Melrose DRIVE	
CITY AND ZIP CODE: Vista, CA 92081-6695	
BRANCH NAME: North County	
TELEPHONE NUMBER: (760) 201-8031	
PLAINTIFF(S) / PETITIONER(S): Tiffany Brinkley	
DEFENDANT(S) / RESPONDENT(S): Monterey Financial Services, Inc.	
BRINKLEY VS. MONTEREY FINANCIAL SERVICES, INC. (IMAGED)	
NOTICE OF CASE ASSIGNMENT and CASE MANAGEMENT CONFERENCE	CASE NUMBER: 37-2013-00071119-CU-MC-NC

**CASE ASSIGNMENT**

Judge: Timothy M. Casserly

Department: N-31

COMPLAINT/PETITION FILED: 10/15/2013

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	07/11/2014	09:00 am	N-31	Timothy M. Casserly

A case management statement must be completed by counsel for all parties or self-represented litigants and timely filed with the court at least 15 days prior to the initial case management conference. (San Diego Local Rules, Division II, CRC Rule 3.725).

All counsel of record or parties in pro per shall appear at the Case Management Conference, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of ADR\* options.

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

**TIME STANDARDS:** The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, parking citation appeals, and family law proceedings.

**COMPLAINTS:** Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants, and a Certificate of Service (SDSC form #CIV-345) filed within 60 days of filing.

**DEFENDANT'S APPEARANCE:** Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

**JURY FEES:** In order to preserve the right to a jury trial, each party demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) for each party on or before the date scheduled for the initial case management conference in the action.

\*ALTERNATIVE DISPUTE RESOLUTION (ADR): THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).

Superior Court of California  
County of San Diego

NOTICE OF ASSIGNMENT  
TO IMAGING DEPARTMENT

**This case has been assigned to an Imaging Department and original documents attached to pleadings filed with the court will be imaged and destroyed. Original documents should not be filed with pleadings. If necessary, they should be lodged with the court under California Rules of Court, rule 3.1302(b).**

On August 1, 2011 the San Diego Superior Court began the Electronic Filing and Imaging Pilot Program ("Program"). As of August 1, 2011 in all new cases assigned to an Imaging Department all filings will be imaged electronically and the electronic version of the document will be the official court file. The official court file will be electronic and accessible at one of the kiosks located in the Civil Business Office and on the Internet through the court's website. This Program will be expanding to other civil courtrooms over time.

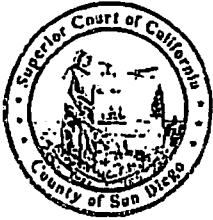
**You should be aware that the electronic copy of the filed document(s) will be the official court record pursuant to Government Code section 68150. The paper filing will be imaged and held for 30 days. After that time it will be destroyed and recycled. Thus, you should not attach any original documents to pleadings filed with the San Diego Superior Court. Original documents filed with the court will be imaged and destroyed except those documents specified in California Rules of Court, rule 3.1806. Any original documents necessary for a motion hearing or trial shall be lodged in advance of the hearing pursuant to California Rules of Court, rule 3.1302(b).**

It is the duty of each plaintiff, cross-complainant or petitioner to serve a copy of this notice with the complaint, cross-complaint or petition on all parties in the action.

On all pleadings filed after the initial case originating filing, all parties must, to the extent it is feasible to do so, place the words **"IMAGED FILE"** in all caps immediately under the title of the pleading on all subsequent pleadings filed in the action.

**Please refer to the General Order - Imaging located on the San Diego Superior Court website at:**

<http://www.sdcourt.ca.gov/CivilImagingGeneralOrder>



## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

### ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

CASE NUMBER: 37-2013-00071119-CU-MC-NC CASE TITLE:

Brinkley vs. Monterey Financial Services, Inc.

**NOTICE:** All plaintiffs/cross-complainants in a general civil case are required to serve a copy of the following three forms on each defendant/cross-defendant, together with the complaint/cross-complaint:

- (1) this Alternative Dispute Resolution (ADR) Information form (SDSC form #CIV-730),
- (2) the Stipulation to Use Alternative Dispute Resolution (ADR) form (SDSC form #CIV-359), and
- (3) the Notice of Case Assignment form (SDSC form #CIV-721).

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. The San Diego Superior Court expects that litigants will utilize some form of ADR as a mechanism for case settlement before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. A form for agreeing to use ADR is attached (SDSC form #CIV-359).

#### Potential Advantages and Disadvantages of ADR

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

##### **Potential Advantages**

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or improves relationships

##### **Potential Disadvantages**

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

#### Most Common Types of ADR

You can read more information about these ADR processes and watch videos that demonstrate them on the court's ADR webpage at <http://www.sdcourt.ca.gov/adr>.

**Mediation:** A neutral person called a "mediator" helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so. Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners, or when parties want to discuss non-legal concerns or creative resolutions that could not be ordered at a trial.

**Settlement Conference:** A judge or another neutral person called a "settlement officer" helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

**Arbitration:** A neutral person called an "arbitrator" considers arguments and evidence presented by each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to binding arbitration, they waive their right to a trial and agree to accept the arbitrator's decision as final. With nonbinding arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial.

**Other ADR Processes:** There are several other types of ADR which are not offered through the court but which may be obtained privately, including neutral evaluation, conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR processes. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute. Be sure to learn about the rules of any ADR program and the qualifications of any neutral you are considering, and about their fees.

#### Local ADR Programs for Civil Cases

**Mediation:** The San Diego Superior Court maintains a Civil Mediation Panel of approved mediators who have met certain minimum qualifications and have agreed to charge \$150 per hour for each of the first two (2) hours of mediation and their regular hourly rate thereafter in court-referred mediations.

**On-line mediator search and selection:** Go to the court's ADR webpage at [www.sdcourt.ca.gov/adr](http://www.sdcourt.ca.gov/adr) and click on the "Mediator Search" to review individual mediator profiles containing detailed information about each mediator including their dispute resolution training, relevant experience, ADR specialty, education and employment history, mediation style, and fees and to submit an on-line Mediator Selection Form (SDSC form #CIV-005). The Civil Mediation Panel List, the Available Mediator List, individual Mediator Profiles, and Mediator Selection Form (CIV-005) can also be printed from the court's ADR webpage and are available at the Mediation Program Office or Civil Business Office at each court location.

**Settlement Conference:** The Judge may order your case to a mandatory settlement conference, or voluntary settlement conferences may be requested from the court if the parties certify that: (1) settlement negotiations between the parties have been pursued, demands and offers have been tendered in good faith, and resolution has failed; (2) a judicially supervised settlement conference presents a substantial opportunity for settlement; and (3) the case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required. Refer to SDSC Local Rule 2.2.1 for more information. To schedule a settlement conference, contact the department to which your case is assigned.

**Arbitration:** The San Diego Superior Court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. Refer to SDSC Local Rules Division II, Chapter III and Code Civ. Proc. § 1141.10 et seq or contact the Arbitration Program Office at (619) 450-7300 for more information.

**More information about court-connected ADR:** Visit the court's ADR webpage at [www.sdcourt.ca.gov/adr](http://www.sdcourt.ca.gov/adr) or contact the court's Mediation/Arbitration Office at (619) 450-7300.

**Dispute Resolution Programs Act (DRPA) funded ADR Programs:** The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code §§ 465 et seq.):

- In Central, East, and South San Diego County, contact the National Conflict Resolution Center (NCRC) at [www.ncrconline.com](http://www.ncrconline.com) or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at [www.nclifeline.org](http://www.nclifeline.org) or (760) 726-4900.

**Private ADR:** To find a private ADR program or neutral, search the Internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

#### Legal Representation and Advice

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California courts website at [www.courtinfo.ca.gov/selfhelp/lowcost](http://www.courtinfo.ca.gov/selfhelp/lowcost).



<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b> <b>STREET ADDRESS:</b> 325 S Melrose DRIVE <b>MAILING ADDRESS:</b> 325 S Melrose DRIVE <b>CITY, STATE, &amp; ZIP CODE:</b> Vista, CA 92081-6695 <b>BRANCH NAME:</b> North County	<b>FOR COURT USE ONLY</b>
<b>PLAINTIFF(S):</b> Tiffany Brinkley	
<b>DEFENDANT(S):</b> Monterey Financial Services, Inc.	
<b>SHORT TITLE:</b> BRINKLEY VS. MONTEREY FINANCIAL SERVICES, INC.	
<b>STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR)</b>	<b>CASE NUMBER:</b> 37-2013-00071119-CU-MC-NC

SDSC CIV-359 (Rev 12-10)

**STIPULATION TO USE OF ALTERNATIVE DISPUTE RESOLUTION**

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